

"AN ACT PERTAINING TO CIVIL LIABILITY FOR CHECKS WRITTEN ON ACCOUNTS WITH INSUFFICIENT FUNDS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. As used in this Act: (a) "Check" means a written unconditional order to pay a sum certain in money drawn on a bank payable on demand and signed by the drawer;

(b) "Drawee" means the bank or purported bank upon which a check is drawn;

(c) "Drawer" means a person either real or fictitious whose name appears on a check as the primary obligor whether the actual signature is that of himself or a person authorized to draw the check in his behalf;

(d) "Issue" means make, draw, deliver or pass a check.

SECTION 2. Civil liability for checks written on accounts with insufficient funds. (a) Any person who issues a check which is not paid because the check was written on an account with insufficient funds has fifteen (15) days following the date of a written demand mailed or delivered to the drawer of the check at the address shown on the check or his last known address to pay to the holder of the check or his agent the amount of the check and a collection fee not to exceed fifteen dollars (\$15.00).

(b) Any person who fails to make restitution as set forth in subsection (a) of this section and who fails to pay the amount of the check and a collection fee not to exceed fifteen dollars (\$15.00), within thirty (30) days following the date of a written demand mailed to the drawer by certified mail, return receipt requested, to the address shown on the check or his last known address, is liable to the holder of the check or his agent for twice the amount of the check but in no case less than fifty dollars (\$50.00), and for interest and costs of collection including reasonable attorney fees. In an action brought under this subsection the prevailing party may recover court costs and reasonable attorney fees.

(c) Nothing in this section shall prevent the criminal prosecution of the person who issues the check. However, any payment made by the defendant to a victim pursuant to an order for restitution entered in a criminal prosecution shall be set off against any judgment in favor of the victim in a civil action brought under this section arising out of the same facts or event.

SECTION 3. This Act does not apply to the laws governing the imposition of a penalty for checks written on accounts which have insufficient funds and which checks are payable to either the Commissioner of Revenues or the Department of Finance and Administration for any taxes, licenses, or fees imposed by any laws of this State.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: February 19, 1987
